

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**MEDTECH PRODUCTS INC.,**

**Plaintiff,**

**v.**

**RANIR, LLC and  
CVS PHARMACY, INC.**

**Defendant.**

**MEDTECH PRODUCTS INC.,**

**Plaintiff,**

**v.**

**DENTEK ORAL CARE, INC.,**

**Defendant.**

**MEDTECH PRODUCTS INC.,**

**Plaintiff,**

**v.**

**POWER PRODUCTS, INC.**

**d/b/a SPLINTEK,**

**Defendant.**

**07 CV 3302 (KMK) (LMS)**

**PLAINTIFF’S REPLY  
IN SUPPORT OF ITS MOTION  
TO AMEND THE SCHEDULING  
ORDER AND MOTION  
FOR LEAVE TO FILE ITS  
SECOND AMENDED COMPLAINT**

**ECF FILED**

Medtech Products Inc. (“Medtech”) hereby respectfully submits this Reply in Support of its Motion to Amend the Scheduling Order and Motion for Leave To File Its Second Amended Complaint in response to Defendant Dentek Oral Care Inc.’s Response to Plaintiff’s Motion for Leave To File Its Second Amended Complaint, Motion To File Exhibits Under Seal, and Motion

to Amend the Scheduling Order, and Cross-Motion for an Extension of Time To Respond to Second Amended Complaint (“DenTek’s Response” and “DenTek’s Cross-Motion,” respectively) (Docket No. 57).

In its Response, DenTek states that it does not oppose Medtech’s motion for leave to file its Second Amended Complaint. In light of this, and for the reasons set forth in Medtech’s Motion to Amend, Medtech respectfully requests that this Court grant its motion for leave to file its Second Amended Complaint. For the Court’s convenience, Medtech is submitting a proposed order granting its motion for leave.

In addition, DenTek’s Cross-Motion seeks “an extension of time to answer, move, or otherwise respond to Medtech’s Second Amended Complaint up to and until the first response of the newly added defendants – Kelly M. Kaplan, Ray Duane, and C.D.S. Associates, Inc. — to the amended pleading.” (*Id.* at p. 1.) While DenTek’s Cross-Motion asks that the defendants be permitted file coordinated responses, there is no authority for such a request in the *Federal Rules of Civil Procedure*.<sup>1</sup> Further, DenTek is not surprised by the allegations in the Second Amended Complaint because Medtech provided a copy of the Second Amended Complaint to DenTek’s counsel on August 23, 2007, the day before Medtech’s motion for leave was filed, in an attempt to gain DenTek’s consent to the filing. Thus, DenTek has already had the substantive allegations of the Second Amended Complaint for over three weeks. If and when the Second Amended Complaint is filed, DenTek will have another ten days from service to file an answer. FED. R. CIV. P. 15(a). Therefore, Medtech does not believe an extension of time to answer is warranted.

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<sup>1</sup> The only reason cited by DenTek was that the “length of the new pleading” justifies the extension. Ironically, it was DenTek that requested specificity in its opposition to the First Amended Complaint. (Docket No. 33 at pp. 4-5.)

In sum, Medtech respectfully requests that the Court grant its motion for leave to file its Second Amended Complaint and deny DenTek's Cross-Motion for an extension of time to answer or otherwise respond to the Second Amended Complaint.

Dated: September 19, 2007.

Respectfully submitted,

ALSTON & BIRD LLP

By: /s/ Amy Manning  
Karl Geercken (KG 5897)  
Amy Manning (AM 0338)  
90 Park Avenue  
New York, New York 10016-1387  
(212) 210-9471 (phone)  
(212) 210-9444 (facsimile)  
karl.geercken@alston.com  
amy.manning@alston.com

W. Edward Ramage, TN BPR No. 16261  
BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C.1800  
Commerce Center, Suite 1000  
211 Commerce Street  
Nashville, Tennessee 37201  
(615) 726-5600  
eramage@bakerdonelson.com  
Admitted *Pro Hac Vice*

Carl M. Davis II, GA Bar Number 207710  
BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C.1800  
Six Concourse Parkway  
Suite 3100  
Atlanta, Georgia 30328  
(678) 406-8700  
cdavis@bakerdonelson.com  
Admitted pro hac vice

Lea Speed, TN BPR No. 19410  
BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C  
165 Madison Avenue  
Suite 2000  
Memphis, TN 38103  
lspeed@bakerdonelson.com  
Admitted pro hac vice

Micheline Kelly Johnson, TN BPR No. 13847  
Clinton P. Sanko, TN BPR No. 23354  
BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C.  
1800 Republic Centre  
633 Chestnut Street  
Chattanooga, Tennessee 37450-1800  
(423) 756-2010  
mjohnson@bakerdonelson.com  
csanko@bakerdonelson.com  
Admitted pro hac vice

Of Counsel:

Todd R. David , GA BPR No. 206526  
ALSTON & BIRD LLP  
One Atlantic Center  
1201 West Peachtree Street  
Atlanta, Georgia 30309-3424  
todd.david@alston.com

Attorneys for Plaintiff  
Medtech Products Inc.